IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

TRIALPAY, INC.,	)	
	)	
Plaintiff,	)	4:10CV3117
	)	
V.	)	
	)	
CHAD MOHLING,	)	**MEMORANDUM AND ORDER**
	)	
Defendant.	)	
	)	

Plaintiff brought this action alleging that Defendant, Plaintiff's former employee, was wrongfully misappropriating Plaintiff's proprietary and confidential business information. Upon filing the complaint, Plaintiff filed a motion for preliminary injunction and temporary restraining order (filing 5). Plaintiff's counsel subsequently advised the court that the parties were preparing a stipulation which would likely resolve the motion for injunctive relief. In accordance with this representation, the parties have now submitted a stipulation for the entry of a permanent injunction and dismissal of the complaint without prejudice (filing 17). The stipulation will be adopted.

IT IS ORDERED:

1.   Plaintiff's motion for a preliminary injunction (filing 5) is granted and Defendant is hereby enjoined as set forth in Paragraph 3 of this memorandum and order.

2.   The parties' stipulation for entry of a permanent injunction (filing 17) is adopted and, pursuant to the parties' stipulation, a permanent injunction in favor of Plaintiff and against Defendant is granted.

3.   In accordance with the parties' stipulation, Defendant is hereby permanently enjoined and restrained from:

a.   utilizing, in any way, the proprietary business information of Plaintiff, including, but not limited to, any information that was contained in Plaintiff's internal database (that was created by Plaintiff and contains information on over 20,000 registered customers) and Plaintiff's external database (known as a "customer relationship management" database that is accessed using salesforce.com's software and/or platform) both of which databases were accessed by Defendant at or before the termination of Defendant's employment with Plaintiff on February 19, 2010;

b.   disclosing to Defendant's current employer (i.e. Adknowledge, Inc.) or prospective employers, the proprietary business information of Plaintiff;

c.   utilizing Plaintiff's confidential and proprietary business information to contact or obtain information to contact or obtain information about Plaintiff's customers;

d.   contacting any of Plaintiff's customers or contacts contained in the proprietary and business information which he wrongfully converted;

e.   any further breach of the terms and conditions of the Proprietary Information and Inventions Agreement executed by Defendant on May 3, 2007.

4.   Within ten (10) days of the entry of this memorandum and order, Defendant shall return all proprietary business information and/or property of Plaintiff, including documents and files, either in paper or electronically stored, that contain any proprietary and/or confidential business information of Plaintiff. After returning to Plaintiff all of Plaintiff's proprietary business information and property as set forth herein, Defendant shall delete, destroy or otherwise dispose of any copies or back-up of Plaintiff's proprietary business information and/or property, including the computer records or information which Defendant has in his possession.

5.   Because the parties have stipulated to the entry of a permanent injunction confessing to the relief requested in Plaintiff's motion for preliminary injunction, and also to the dismissal of this action, no security is required pursuant to Fed. R. Civ. P. 65(c) prior to the entry of a permanent injunction.

6.   Should Defendant violate any of the terms of this memorandum and order, Plaintiff may seek relief from this court to enforce the order through the entry of sanctions, including, among other things, Plaintiff's attorney fees, costs and any damages sustained as a result of any such violation.

7.   Judgment shall be entered by separate document providing that this action is dismissed without prejudice.

July 7, 2010.

BY THE COURT:

Richard G. Kopf

United States District Judge